

# **SENATE, No. 2927**

## **STATE OF NEW JERSEY**

### **211th LEGISLATURE**

INTRODUCED DECEMBER 8, 2005

**Sponsored by:**

**Senator JOSEPH F. VITALE**

**District 19 (Middlesex)**

**Senator JOHN A. GIRGENTI**

**District 35 (Bergen and Passaic)**

**Assemblywoman MARY T. PREVITE**

**District 6 (Camden)**

**Assemblyman PETER J. BARNES, JR.**

**District 18 (Middlesex)**

**Assemblyman GORDON M. JOHNSON**

**District 37 (Bergen)**

**Co-Sponsored by:**

**Assemblymen Steele, Gusciora, Assemblywoman Williams, Assemblyman Conaway, Assemblywomen Cruz-Perez, Oliver, Watson Coleman, Assemblyman Caraballo, Assemblywoman Pou, Assemblymen Stack and Manzo**

**SYNOPSIS**

Revises criteria for placing juveniles in detention.

**CURRENT VERSION OF TEXT**

As introduced.

(Sponsorship Updated As Of: 1/10/2006)

1 AN ACT concerning criteria for placing a juvenile in detention and  
2 amending P.L.1982, c.77.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. Section 15 of P.L.1982, c.77 (C.2A:4A-34) is amended to read  
8 as follows:

9 Criteria for placing juvenile in detention.

10 a. [Where it will not adversely affect the health, safety or welfare  
11 of a juvenile, the juvenile] Except as otherwise provided in this  
12 section, a juvenile charged with an act of delinquency shall be released  
13 pending the disposition of a case, if any, to any person or agency  
14 provided for in this section upon assurance being received that such  
15 person or persons accept responsibility for the juvenile and will bring  
16 him before the court as ordered.

17 b. No juvenile shall be placed in detention without the permission  
18 of a judge or the court intake service.

19 c. A juvenile charged with delinquency may not be placed or  
20 retained in detention under this act prior to disposition, except as  
21 otherwise provided by law, unless:

22 (1) Detention is necessary to secure the presence of the juvenile at  
23 the next hearing as evidenced by a demonstrable record of recent  
24 willful failure to appear at juvenile court proceedings or to remain  
25 where placed by the court or the court intake service or the juvenile is  
26 subject to a current warrant for failure to appear at court proceedings  
27 which is active at the time of arrest; or

28 (2) The physical safety of persons or property of the community  
29 would be seriously threatened if the juvenile were not detained and the  
30 juvenile is charged with an offense which, if committed by an adult,  
31 would constitute a crime of the first, second or third degree or one of  
32 the following crimes of the fourth degree: aggravated assault;  
33 stalking; criminal sexual contact; bias intimidation; failure to control  
34 or report a dangerous fire; possession of a prohibited weapon or  
35 device in violation of N.J.S.2C:39-3; or unlawful possession of a  
36 weapon in violation of N.J.S.2C:39-5.; or

37 (3) [When the criteria for detention are met and the] With respect  
38 to a juvenile [is] charged with an offense which, if committed by an  
39 adult, would constitute a crime of the fourth degree other than those  
40 enumerated in paragraph (2) of this subsection, or a disorderly persons  
41 or petty disorderly persons offense, and with respect to a juvenile  
42 charged with an offense enumerated in subsection c. when the criteria

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 for detention are not met, the juvenile may be [placed in detention]  
2 temporarily placed in a shelter or other non-secure placement if a  
3 parent or guardian cannot be located or will not accept custody of the  
4 juvenile. Police and court intake personnel shall make all reasonable  
5 efforts to locate a parent or guardian to accept custody of the juvenile  
6 prior to requesting or approving the juvenile's placement in  
7 [detention] a shelter or other non-secure placement. If, after the  
8 initial detention hearing, continued [detention] placement is  
9 necessary, the juvenile shall [not be detained in a secure facility but  
10 shall be transferred to] be returned to a shelter or other non-secure  
11 placement.

12 d. The judge or court intake officer prior to making a decision of  
13 detention shall consider and, where appropriate, employ any of the  
14 following alternatives:

- 15 (1) Release to parents;
- 16 (2) Release on juvenile's promise to appear at next hearing;
- 17 (3) Release to parents, guardian or custodian upon written  
18 assurance to secure the juvenile's presence at the next hearing;
- 19 (4) Release into care of a custodian or public or private agency  
20 reasonably capable of assisting the juvenile to appear at the next  
21 hearing;
- 22 (5) Release with imposition of restrictions on activities,  
23 associations, movements and residence reasonably related to securing  
24 the appearance of the juvenile at the next hearing;
- 25 (6) Release with required participation in a home detention  
26 program;
- 27 (7) Placement in a shelter care facility; or
- 28 (8) Imposition of any other restrictions other than detention or  
29 shelter care reasonably related to securing the appearance of the  
30 juvenile.

31 e. In determining whether detention is appropriate for the juvenile,  
32 the following factors shall be considered:

- 33 (1) The nature and circumstances of the offense charged;
- 34 (2) The age of the juvenile;
- 35 (3) The juvenile's ties to the community;
- 36 (4) The juvenile's record of prior adjudications, if any; and
- 37 (5) The juvenile's record of appearance or nonappearance at  
38 previous court proceedings.

39 f. No juvenile 11 years of age or under shall be placed in detention  
40 unless he is charged with an offense which, if committed by an adult,  
41 would be a crime of the first or second degree or arson.

42 g. If the court places a juvenile in detention, the court shall state  
43 on the record its reasons for that detention.

44 h. For purposes of this section, a failure to appear at juvenile court  
45 proceedings or to remain where placed by the court or the court intake  
46 service shall be deemed recent if it occurred within the 12 months

1 immediately preceding the detention hearing, or if it occurred within  
2 the period of 12 to 24 months preceding the detention hearing and the  
3 juvenile is unable to demonstrate a record of voluntary compliance  
4 with any subsequent court appearance and placement requirements.  
5 (cf: P.L.1989, c.306, s.1)

6  
7 2. This act shall take effect on the first day of the fourth month  
8 following enactment.

9  
10  
11 STATEMENT

12  
13 This bill would revise the current criteria on which a decision to  
14 place a juvenile in detention is based.

15 Under current law, a court may detain a juvenile if releasing the  
16 juvenile would "adversely affect the health, safety or welfare of a  
17 juvenile." This bill removes this broad language and allows detention  
18 only as specified in the bill.

19 A juvenile also may be placed in detention under current law if: (1)  
20 detention is necessary to secure a juvenile's presence at the next court  
21 hearing when the juvenile has a record of willful failure to appear at  
22 juvenile proceedings or to remain where placed by the court; or (2)  
23 not detained, the physical safety of persons or property would be  
24 seriously threatened by that juvenile and the juvenile is charged with  
25 a crime, which if committed by an adult, would constitute a crime of  
26 the first, second, third or fourth degree. A juvenile charged with a  
27 disorderly persons offense or petty disorderly persons offense also may  
28 be detained, but only temporarily, if police and court personnel are  
29 unsuccessful in locating a parent or guardian to accept custody.

30 This bill would change the current law to also allow a juvenile to be  
31 detained when the juvenile is subject to a current warrant for failure to  
32 appear at court proceedings which is active at the time of arrest. The  
33 bill clarifies that a failure to appear at juvenile court proceedings or to  
34 remain where placed by the court or the court intake service shall be  
35 deemed recent if it occurred within the 12 months immediately  
36 preceding the detention hearing, or if it occurred within the period of  
37 12 to 24 months preceding the detention hearing and the juvenile is  
38 unable to demonstrate a record of voluntary compliance with any  
39 subsequent court appearance and placement requirements.

40 Under the bill, only juveniles charged with certain fourth degree  
41 crimes, that, if committed by an adult, would constitute a crime, would  
42 be subject to detention. Those crimes are: aggravated assault;  
43 stalking; criminal sexual contact; bias intimidation; failure to control  
44 or report a dangerous fire; possession of a prohibited weapon or  
45 device; or unlawful possession of a weapon.

46 The bill specifies that juveniles charged with crimes, which if

1 committed by an adult, constitute other fourth degree crimes, or a  
2 disorderly persons or petty disorderly persons offense, may be  
3 temporarily placed in a shelter or other non-secure placement only if  
4 a parent or guardian cannot be located or will not accept custody of  
5 the juvenile.

6 It is the sponsor's belief that juveniles should be detained only when  
7 necessary since there are more effective means to protect juveniles  
8 than by detaining them.